

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING LIMITED REHEARING
ISSUES, SCHEDULE AND PROCEDURES**

1. Summary

Decision (D.) 02-01-001 grants limited rehearing of D.01-03-082. This Ruling identifies the issues, schedule and procedures for the limited rehearing. Opening briefs shall be filed and served within 21 days of today, and reply briefs filed and served within 14 days thereafter.

2. Background

The Commission grants limited rehearing of D.01-03-082 "on the issue of whether rate controls under AB [Assembly Bill] 1890 should have ended." (D.02-01-001, Ordering Paragraph 2.) The Commission states:

“...we are of the opinion that it would be prudent for the Commission to now reconsider the issue of whether the AB 1890 rate controls should be ended. New legislation, AB 6X in particular, has materially affected the implementation of AB 1890. We wish to reconsider the viability of maintaining the AB 1890 rate controls in light of these recent legislative changes.

“Further proceedings will address the impact of AB 6X on the AB 1890 rate freeze paradigm, and the actual date of the end of the rate freeze. We anticipate that the issues involved in this determination are legal as opposed to factual, and the Commission can adequately resolve the issue of ending the rate freeze after briefing by the parties. We accordingly will direct the ALJ [Administrative Law Judge] Division to set a schedule enumerating the issues to be addressed. We further note that we must also determine the extent and disposition of stranded costs left unrecovered, and will address this in proceedings subsequent to our determinations regarding the rate freeze.” (*Id.*, mimeo., pages 24-5.)

3. Issues

Parties may file and serve opening and reply briefs on legal issues regarding the end of the rate freeze. Factual issues, such as the extent and disposition of unrecovered stranded costs, if any, will be addressed in proceedings subsequent to the Commission’s determination regarding the rate freeze.

Parties’ briefs should address each of the following issues in the following order:

1. How should AB 1890 and AB 6X be reconciled given the substantially different and potentially conflicting market and regulatory approaches contemplated therein (with AB 1890 establishing a regulatory scheme for utility recovery of some or all transition (stranded) costs leading to a competitive generation market with no further Commission regulation of generation assets after the transition, and AB 6X reauthorizing Commission regulation of utility retained generation assets)?

2. To what extent does Commission regulation of utility retained generation under AB 6X supercede the prohibition of transition cost recovery after March 31, 2002 under AB 1890?
3. In what way, if any, should the Commission consider the risk that utilities are expected to incur as part of the transition under AB 1890 in determining how to reconcile AB 1890 and AB 6X, and in determining when and if the rate freeze ended or will end?
4. What affect, if any, does D.01-03-082, with its adoption of The Utility Reform Network accounting mechanism, have on determining when the rate freeze ended or ends?
5. Is the issue of the end of the rate freeze made moot given that the Commission will determine the just and reasonable rate base and rates for each utility under AB 6X, taking into account all appropriate and necessary factors including “the extent and disposition of stranded costs left unrecovered” (D.02-01-001, mimeo., page 25)?
6. If the end of the rate freeze is not moot with the return of rate regulation under AB 6X, what factors should be applied to determine when the rate freeze ended or ends? Using these factors, when did it, or will it, end?
7. What is the connection, if any, between the determinations to be made in this rehearing on the end of the rate freeze and the determinations to be made in other Commission proceedings, and how should those determinations be coordinated, harmonized, or reconciled (e.g., Case 02-02-027 (*Ahern, et al. v. Pacific Gas & Electric Company (PG&E)*); Investigation 02-04-026; Investigation Into the Ratemaking Implications of Reorganization Plans for PG&E))?

4. Schedule and Procedures

Opening briefs shall be filed and served no later than 21 days from the date of this ruling. Reply briefs shall be filed and served no later than 14 days after the filing of opening briefs.

Briefs are to address legal issues. Motions to strike, if any, must be filed and served within seven days of the filing date of the opening or reply brief.

Responses must be filed and served within seven days of the date the motion is filed.

Previously established protocols for filing and service shall apply.¹ That is, paper copies must be filed with the Commission's Docket Office. A paper copy must be served on each party and state service participant who does not have an electronic mail address.² An electronic copy must be served on each party and state service participant with an electronic mail address. Electronic copies should also be served on those in the information only category.³ Electronic mail addresses are available on the Commission's web page.⁴ Finally, service of both a paper copy and an electronic copy must be made on me.

IT IS RULED that:

1. Parties may file and serve opening and reply briefs. Each brief shall address each issue stated in this Ruling in the order presented in this Ruling. Opening briefs shall be filed and served no later than 21 days of the date of this Ruling. Reply briefs shall be filed and served no later than 14 days after the date opening briefs are filed.

¹ See, for example, Rulings dated April 11, 2001; April 27, 2001; June 28, 2001; September 18, 2001; and December 21, 2001.

² Of the 132 on the current service list in the appearance (party) category, only three do not have an electronic mail address. Of the 44 currently in the state service (non-party) category, all have an electronic mail address.

³ Five out of 96 participants currently in the information only (non-party) category do not have an electronic mail address. Parties may, but are not required, to serve a paper copy on these five information only participants.

⁴ See, for example, service list for A.00-11-038, comma-delimited file, Column D.

2. Motions to strike, if any, shall be filed and served within seven days of the filing date of the opening or reply brief. Responses shall be filed and served within seven days of the date motions are filed.

3. Previously established electronic service protocols shall apply. Paper copies shall be filed with the Docket Office, served on each party and state service participant who does not have an electronic mail address, and served on me. Electronic copies shall be served on all participants who have an electronic mail address including parties, state service participants, and information only participants. Electronic service shall also be performed on me at bwm@cpuc.ca.gov.

Dated May 7, 2002, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Limited Rehearing Issues, Schedule and Procedures on all parties of record in this proceeding or their attorneys of record.

Dated May 7, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.